

Journal of Contemporary Health Law & Policy (1985-2015)

Volume 4 | Issue 1

Article 23

1988

LAW, BEHAVIOR, AND MENTAL HEALTH: POLICY AND PRACTICE.
By Steven R. Smith and Robert G. Meyer. New York and London:
New York University Press, 1987. xvi + 772 Pages, including
chapter end notes, index of references, and index. \$60.

Raymond B. Marcin

Follow this and additional works at: <https://scholarship.law.edu/jchlp>

Recommended Citation

Raymond B. Marcin, *LAW, BEHAVIOR, AND MENTAL HEALTH: POLICY AND PRACTICE*. By Steven R. Smith and Robert G. Meyer. New York and London: New York University Press, 1987. xvi + 772 Pages, including chapter end notes, index of references, and index. \$60., 4 J. Contemp. Health L. & Pol'y 496 (1988). Available at: <https://scholarship.law.edu/jchlp/vol4/iss1/23>

This Book Review is brought to you for free and open access by CUA Law Scholarship Repository. It has been accepted for inclusion in Journal of Contemporary Health Law & Policy (1985-2015) by an authorized editor of CUA Law Scholarship Repository. For more information, please contact edinger@law.edu.

This very fine volume of jurisprudence has implications for all who participate in the theory or practice of law. It should be read by everyone. In a refreshing way, this book is itself a convincing illustration of the ideal its author proposes, since it is "open," "committed," "unified," and, indeed, even "luminous." In order to understand what the author means by "authenticity" and "interiority," attend not just to what this books says, but to the beauty and humanity with which the author says it.

LAW, BEHAVIOR, AND MENTAL HEALTH: POLICY AND PRACTICE. By Steven R. Smith and Robert G. Meyer. New York and London: New York University Press, 1987. xvi + 772 Pages, including chapter end notes, index of references, and index. \$60.

*Reviewed by Raymond B. Marcin.**

IN **LAW, BEHAVIOR, AND MENTAL HEALTH: POLICY AND PRACTICE**, Professors Smith and Meyer have managed to paint a very broad canvas with a very fine brush. Their book is no slapdash survey of a few timely topics. It is a meticulously researched and documented analysis of a very large and comprehensive field, a reference work well worth having in one's library.

Smith and Meyer get a handle on their broad and somewhat unwieldy topic by dividing it into three parts: (1) the law and mental health practice (2) human behavior and the courtroom, and (3) behavioral science and social-legal policy. A fourth part in the form of a brief conclusionary analysis of the themes in law and the behavioral sciences is added.

The first part, examining the law and mental health practice, is necessarily somewhat ranging. But the subtitle of the book holds it together: it deals with the practical as well as the policy aspects of the interactions between the law and the mental health profession and the concerns of both. The practical issues dealt with involve licensing and regulation of the mental health care delivery systems, and the authors delve deeply into professional ethics, confidentiality, privilege, privacy, as well as malpractice liability. The policy issues taken up in part one include the legal issues involved in psycho-

* A.B., J.D., M.L.S. Professor of Law, Catholic University of America.

logical testing, behavioral research with human subjects, and what the authors refer to as "the intrusive therapies": electroconvulsive therapy, psychosurgery, and psychotropic medications.

A clear thread runs thematically through the second part of the book dealing with human behavior and the courtroom. It is the concept of the courtroom trial as a truth-finding process. And it is quite refreshing for the lawyer-reader to see and identify that thematic thread. The lawyer, perhaps much too often, thinks of the trial as a contest in which winning is the main goal, and truthconcealing is not an uncommon thought. The authors are sensitive to this adversary-combat aspect of the trial, especially in their treatment of the jury selection process, but seem to treat the main goal of the trial as being truth-finding and that technique works well: their treatment of the trial process is realistic without the jadedness that a heavy emphasis on the adversary roles usually brings. This realistic approach takes the authors into a psychological breakdown of what makes juries decide an issue in one way rather than another, and "scientific" jury selection.

Part two also contains a chapter on the polygraph and other means of psychologically determining the truth, *e.g.*, hypnosis, drugs, voice analyzers, and body language. In the area of the practical, part two also contains a discussion of the mental health professional as an expert witness.

Part three, which discusses behavioral science and social-legal policy, brings behavioral science theory to bear on the issues of criminal responsibility, punishment, juvenile justice, competency, and civil commitment. The discussion, while theoretical and policy oriented, does not ignore the practical aspects of those issues, especially juvenile justice and civil commitment, where the authors delve into procedural rights and processes in general.

In a concluding part, the authors identify and discuss what they take to be a pervasive and central theme: decision making autonomy and responsibility.

As comprehensive, detailed, and well referenced as it is, the book is not without a flaw or two. One worth mentioning is the use of chapter endnotes instead of footnotes; it makes for needless and inconvenient rummaging and even with the use of an end-chapter bookmark (or finger), it is still annoying.

As the title indicates, the psychological perspective pervading the book tends to be behaviorist, but not radically or dogmatically so.

One noteworthy feature of the book — a feature which enhances its utility (and somewhat makes up for the use of endnotes) — is the "index of references": fully seventy-six pages of all the endnotes arranged alphabetically (in the format prescribed by *A Uniform System of Citations*, the style manual used generally by law review editors).

Smith and Meyer have undertaken a difficult task and handled it well. Their work represents much more than a practical manual for mental health professionals concerned with the law or lawyers concerned with mental health issues. It addresses the deeper ethical and policy issues that concern both professions as well. **LAW, BEHAVIOR, AND MENTAL HEALTH** is one of those rare works which successfully blend the practical with the thoughtful with the result that the book is both useful and readable.